



STATE OF MARYLAND

**DHMH**

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

STATE OF MARYLAND  
DEPARTMENT OF HEALTH & MENTAL HYGIENE

Administrative Services Organization (ASO)  
for Maryland's Public Mental Health System

DHMH-OPASS 10-9959

Addendum # 1  
Issued: November 20, 2008

Recipients of this addendum are required to complete and submit the **Addendum # 1 Acknowledge Receipt** that is the last page of this document.

All persons who are known by the Issuing Officer to have received the above-referenced Request for Proposal are hereby advised of the following:

**The closing date is: January 12, 2009 @ 2:00 PM**

Please see the attached requirement change with revised language for DHMH- Administrative Services Organization (ASO) for Maryland's Public Mental Health System.

Below is information currently found on pages 73 -78 of the RFP  
PART IV GENERAL INFORMATION AND INSTRUCTIONS. This addendum is to revised the MBE language.

1.15 MBE Requirements

A. Subcontracting Participation Goal

A Minority Business Enterprise (MBE) subcontract participation goal of an amount not less than **15%** of the total dollar value of the contract has been established for this procurement. By

submitting a response to this solicitation, the offeror agrees that one or more Maryland Department of Transportation (MDOT) certified MBEs will perform this percentage of the dollar value of the contract. That is, a prime contractor including an MBE prime contractor or a prime contractor comprising a joint venture that includes MBE partner(s)— must accomplish an amount of work not less than the MBE subcontract goal with certified Maryland MBE subcontractors. In the event that two or more offers are determined by the Procurement Officer to be equal, the Department of Health and Mental Hygiene may award a contract to the offeror whose proposal reflects the highest percentage of certified MBE participation.

By submitting a response to this solicitation, the offeror agrees that these dollar amounts of the contract will be performed by certified minority business enterprises as specified. That is, a prime contractor — including an MBE prime contractor or a prime contractor comprising a joint venture that includes MBE partner(s)— must accomplish an amount of work not less than the MBE subcontract goals with certified MBE subcontractors as specified. In the event that two or more offers are determined by the Procurement Officer to be equal, The Department of Health and Mental Hygiene may award a contract to the offeror whose proposal reflects the highest percentage of certified MBE participation.

**B. MBE Subcontracting Provisions**

If this procurement contains MBE subcontracted participation goals, bidders or offerors, including those bidders or offerors that are certified Maryland MBEs, shall:

- (a) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
- (b) Solicit certified MBEs in writing at least 10 days before bids or proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
- (c) Attempt to make personal contact with the certified MBEs solicited and to document these attempts;
- (d) Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements; and
- (e) Attend prebid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs.

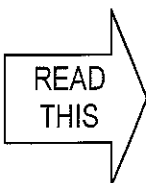
**C. Proposal/Contract Submission Requirements – MBE Participation Documentation**

- 1.) *MBE Utilization and Fair Solicitation Affidavit* (MBE Attachment A)

The following document shall be considered as part of the contract and shall be furnished by the offeror along with the MBE Participation Schedule (Attachment B) in a sealed envelope during the time of submission. The offeror shall submit a completed *MBE Utilization and Fair Solicitation Affidavit* (see Appendix G, MBE Attachment A), whereby the offeror acknowledges the MBE participation goal and commits to make a good faith effort to achieve it, and affirms that in the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors, and that the solicitation process was conducted in such a manner so as to not otherwise place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors. Offerors must select either box 1b on the Affidavit, reflecting an intention to make a good faith effort to meet the goal, or box 1c on the Affidavit, reflecting an expectation that the goal will be partially, or not at all, met and that a waiver will be requested.

2.) *MBE Participation Schedule* (MBE Attachment B)

The following document shall be considered as part of the contract and shall be furnished by the offeror along with the MBE Utilization and Fair Solicitation Affidavit (Attachment A) in a sealed envelope during the time of submission. The offeror shall submit a completed *MBE Participation Schedule* (see Appendix G, MBE Attachment B) of MDOT certified Minority Business Enterprises whereby the offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission and naming each proposed certified MBE who will participate in the project and describing the contract items to be performed or furnished by the MBE. The offeror shall specify the price and/or the percentage of contract value associated with each MBE subcontractor identified on the *MBE Participation Schedule*. This Attachment must always accompany the financial proposal. If Box 1b of the Affidavit (MBE Attachment A) is selected, Part 1 and Part 2 of this Attachment B must be fully completed as set forth herein. If Box 1c is selected, Part 1 of this Attachment B must be completed and Part 2 must include any MBE subcontractors that will partially complete the goal, or, if a total waiver is to be requested, the information in Part 2 may be blank. **Note, Attachment B must be submitted regardless of which option (b or c) is selected in section 1 of the Affidavit (MBE Attachment A).**



**ATTENTION:** If an offeror fails to submit properly completed *MBE Attachment A* and *MBE Attachment B* at the time of submittal of the offer as required, the Procurement Officer will deem the offer not reasonably susceptible of being selected for award of contract.

3.) Other Documentation

Within 10 working days from notification that it is the apparent successful offeror, or from the date of award, whichever is earlier, (COMAR 21.11.03.10.B), the apparent successful offeror must submit to the Department of Health and Mental Hygiene's Procurement Officer:

- a.) A completed *Outreach Efforts Compliance Statement* (see Appendix G, MBE Attachment C), signed by the offeror, which shall be considered as part of the contract. It shall include:
  - (i) A listing of specific work categories identified by the offeror in which there are subcontracting opportunities,
  - (ii) Copies of written solicitations used to solicit certified MBEs for these subcontracting opportunities,
  - (iii) A description of the offeror's attempts to personally contact the solicited MBEs, and
  - (iv) A description of offeror's efforts to fulfill or seek waiver of bonding requirements, if bonding required.
- b.) A completed *Subcontractor Project Participation Statement* (see Appendix G, MBE Attachment D). This statement must be consistent with the information included on the *MBE Participation Schedule (MBE Attachment B)*, unless any changes in MBE subcontractors have been submitted to and approved by the Department. The *Subcontractor Project Participation Statement*, which shall be considered to be part of the contract, shall be signed by both the offeror and each MBE listed and shall include:
  - (i) A statement of intent to enter into a contract between the prime contractor and each subcontractor if a contract is executed between the Department of Health and Mental Hygiene and the prime contractor, and
  - (ii) The amount and type of bonds required of MBE subcontractors, if any.
- c.) Any other documentation considered appropriate by the Department of Health and Mental Hygiene to ascertain offeror responsibility in connection with the contract MBE participation goal.

**ATTENTION: If the apparent awardee fails to return each completed document within the required time, and in compliance with the requirements of this section B.2, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.**

4.) MBE Participation Waiver

If the apparent successful offeror is unable to achieve the contract goal for certified MBE participation, the offeror must submit instead of, or in conjunction with an *MBE Subcontractor Project Participation Statement*, a written request for a waiver with justification, to include the following:

- (a) A detailed statement of the efforts made to select portions of the proposed work to be performed by the certified MBE's in order to increase the likelihood of achieving the stated goal;
- (b) A detailed statement of the efforts made to contact and negotiate with certified MBEs including the names, addresses, dates, and telephone numbers of the certified MBEs contacted and a description of the information provided to the certified MBEs regarding plans, specifications, and anticipated time schedules for portions of the work to be performed;
- (c) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful offeror considered not to be acceptable, a detailed statement of the reasons for this conclusion; and
- (d) In the event certified minority subcontractors are found to be unavailable, a signed and notarized *MBE Statement of Unavailability (MBE Attachment E)* must be prepared by the apparent successful offeror, including the names, addresses, dates, and telephone numbers of the certified MBEs contacted, and the reason each MBE is unavailable. A waiver of a certified MBE contract goal shall be granted only upon reasonable demonstration by the apparent successful offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the Secretary or designee determines that a waiver serves the public interest. The Code of Maryland Regulation citation ((COMAR 21.11.03.11) governing the MBE waiver is included as *MBE Attachment F*.

### **C. MBE Compliance**

The Department will ensure ongoing compliance with subcontracting requirements by way of periodic reviews conducted by the Department and periodic reporting by both the prime contractor and certified MBE subcontractor(s). To this end the contractor shall:

- 1.) Submit monthly to the Department as noted below a *Prime Contractor Unpaid MBE Invoice Report (MBE Attachment G)* listing any unpaid invoices, over 30 days old, received from any certified MBE contractor, the amount of each invoice and the reason payment has not been made;
- 2.) Include in its agreement with certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department, a *Subcontractor Payment Report (MBE Attachment H)* that identifies the prime contract and lists all payments received from the

contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices;

**Attention: One copy of each report noted above, is to be submitted monthly to the Department's Contract Monitor identified in this PART III of this solicitation and to the Office of Community Relations, 5th floor, 201 West Preston Street, Baltimore, MD 21201 (410) 767-6600.**

- 3.) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of the work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the contractor and furnished to the Procurement Officer on request;
- 4.) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for Department inspection for a period of three years after final completion of the contract; and
- 5.) At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Upon determining the contractor's non-compliance, the Department shall notify the contractor in writing of its findings and shall specify what corrective actions are required. The contractor shall be required to initiate the corrective actions within 10 days and complete them within the time specified by the Department. If the Department determines that substantial noncompliance with MBE contract provisions exists and that the prime contractor refuses or fails to take corrective action required by the Department, then the following sanctions may be invoked:

- 1.) Withholding payment;
  - 2.) Termination of the contract;
  - 3.) Suspension of the right of the contractor to participate in any future contracts;
  - 4.) Referral to the Office of the Attorney General for appropriate action;
  - 5.) Initiation of any other specific remedy identified by the Contract; and
  - 6.) Any other compliance mechanism authorized in COMAR 21.11.03. or available at law.
- D. If the Department determines that the contractor has not complied with the certified MBE subcontractor participation goal, and has not obtained a waiver (See Appendix G, MBE Attachment F), the Procurement Officer, upon review by the Office of the Attorney General, may determine the contractor to be in breach of contract. The reasons for this action shall be specified in writing and mailed or delivered to the contractor.

- E. All questions related to MBE certification must be directed to:

Maryland Department of Transportation  
Office of Minority Business Enterprise/Equal Opportunity  
P.O. Box 8755  
BWI Airport  
Baltimore, Maryland 21240  
Telephone: (410) 865-1269

**THE MBE REQUIREMENT IS AMENDED TO READ AS FOLLOWS:**

1.15 MBE Requirements

The MBE subcontracting goal for any contract(s) resulting from this solicitation is 15%. Minority businesses are strongly encouraged to submit an offer in response to this RFP.

A. Subcontracting Participation Goal

A Minority Business Enterprise (MBE) subcontract participation goal of an amount not less than 15% of the total dollar value of the contract has been established for this procurement. By submitting a response to this solicitation, the offeror agrees that one or more Maryland Department of Transportation (MDOT) certified MBEs will perform this percentage of the dollar value of the contract. That is, a prime contractor **must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors or request a partial or complete waiver request with documentation.** In the event that two or more offers are determined by the Procurement Officer to be equal, the Department of Health and Mental Hygiene may award a contract to the offeror whose proposal reflects the highest percentage of certified MBE participation.

Note: It is essential that the offeror or bidder be specific as to: 1) the identity of each MBE subcontractor proposed, 2) the type of work that each subcontractor will perform under the contract and 3) the percentage of the total contract price that each subcontractor's work will comprise of the total contract price. Lack of specificity in any of these areas will cause a bid or proposal to be determined not responsive or not susceptible of being selected for award, as will submission of MBEs whose individual percentages of work, when added together, do not at least equal the percentage of MBE participation identified in Appendix G, MBE Attachment A.

By submitting a response to this solicitation, the offeror agrees that these percentage amounts of the contract will be performed by certified minority business enterprises as specified. That is, a prime contractor — including an MBE prime contractor or a prime contractor comprising a joint venture that includes MBE partner(s)— must accomplish an amount of work not less than the MBE

subcontracting goal on Appendix G, MBE Attachment A with certified MBE subcontractors as specified. **Note: It is essential that the offeror or bidder be specific as to: 1) the identity of each MBE subcontractor proposed, 2) the type of work that each subcontractor will perform under the contract and 3) the percentage of the total contract price that each subcontractor's work will comprise of the total contract price. Lack of specificity in any of these areas will cause a bid or proposal to be determined not responsive or not susceptible of being selected for award, as will submission of MBEs whose individual percentages of work, when added together, do not at least equal the percentage(s) of MBE participation identified in Appendix G, MBE Attachment A.**

In the event that two or more offers are determined by the Procurement Officer to be equal, The Department of Health and Mental Hygiene may award a contract to the offeror whose proposal reflects the highest percentage of certified MBE participation.

**B. Proposal/Contract Submission Requirements – MBE Participation Documentation**

Offerors, including those offerors that are certified MBEs, shall:

- (a) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
- (b) Solicit certified MBEs in writing at least 10 days before bids or proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
- (c) Attempt to make personal contact with the certified MBEs solicited and to document these attempts;
- (d) Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements; and
- (e) Attend prebid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs.

**1.) *MBE Utilization and Fair Solicitation Affidavit* (Appendix G, MBE Attachment A)**

The following document shall be considered as part of the contract and shall be furnished by the offeror in an envelope labeled "MBE documents". The offeror shall submit a completed *MBE Utilization and Fair Solicitation Affidavit* (see Appendix G, MBE Attachment A), whereby the offeror acknowledges the MBE participation goal and commits to make a good faith effort to achieve it. The offeror also affirms that in the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors, and that the solicitation process was conducted in such a manner so as to not otherwise place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors. Offerors



must select either box 1b on the Affidavit, reflecting an intention to make a good faith effort to meet the goal, or box 1c on the Affidavit, reflecting an expectation that the goal will be partially, or not at all, met and that a waiver will be requested. This Affidavit must be submitted with the technical proposal.

2.) *MBE Participation Schedule* (Appendix G, MBE Attachment B)

The following document shall be considered as part of the contract and shall be furnished by the offeror in the envelope labeled "MBE attachments". The offeror shall submit a completed *MBE Participation Schedule* (see Appendix G, MBE Attachment B) containing MDOT certified Minority Business Enterprises whereby the offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation or on Appendix G, MBE Attachment A, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission and naming each proposed certified MBE who will participate in the project and describing the contract items to be performed or furnished by each MBE. The sum of the percentages of all MBE contractors must at least be equal to the amount of MBE participation indicated on Appendix G, MBE Attachment A. The offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the *MBE Participation Schedule*. If Box 1b of the Affidavit (Appendix G, MBE Attachment A) is selected, Part 1 and Part 2 of this Appendix G, MBE Attachment B must be fully completed as set forth herein. If Box 1c is selected, Part 1 of this Attachment B must be completed and Part 2 must include any MBE subcontractors that will partially complete the goal, or, if a total waiver is to be requested, the information in Part 2 may be blank.

**Note, this Appendix G, MBE Attachment B with specific names of each subcontractor, specific work to be accomplished by each and specific percentages of the total contract amount that each will contribute, must be submitted with the financial proposal regardless of which option (b or c) is selected in section 1 of the Affidavit (MBE Attachment A).**



**ATTENTION: If an offeror fails to submit properly completed Appendix G, MBE Attachment A and Appendix G, MBE Attachment B at the time of submittal of the offer as required, the Procurement Officer will deem the offer not reasonably susceptible of being selected for award of contract.**

4.) Other Documentation

Within 10 working days from notification that it is the apparent successful offeror, or from the date of award, whichever is earlier, (COMAR 21.11.03.10.B), the apparent successful offeror must submit to the Department of Health and Mental Hygiene's Procurement Officer:

- b.) A completed *Outreach Efforts Compliance Statement* (see Appendix G, MBE Attachment C), signed by the offeror, which shall be considered as part of the contract. It shall include:
  - (i) A listing of specific work categories identified by the offeror in which there are subcontracting opportunities,
  - (ii) Copies of written solicitations used to solicit certified MBEs for these subcontracting opportunities,
  - (iii) A description of the offeror's attempts to personally contact the solicited MBEs, and
  - (iv) A description of offeror's efforts to fulfill or seek waiver of bonding requirements, if bonding required.
- (b.) A completed *Subcontractor Project Participation Statement* (see Appendix G, MBE Attachment D). This statement must be consistent with the information included on the *MBE Participation Schedule* (Appendix G, MBE Attachment B), **unless any changes in MBE subcontractors have been submitted to and approved by the Department.** The *Subcontractor Project Participation Statement*, which shall be considered to be part of the contract, shall be signed by both the offeror and each MBE listed and shall include:
  - (i) A statement of intent to enter into a contract between the prime contractor and each subcontractor if a contract is executed between the Department of Health and Mental Hygiene and the prime contractor, and
  - (ii) The amount and type of bonds required of MBE subcontractors, if any.
- (c.) Any other documentation considered appropriate by the Department of Health and Mental Hygiene to ascertain offeror responsibility in connection with the contract MBE participation goal.

**ATTENTION: If the apparent awardee fails to return each completed document within the required time, and in compliance with the requirements of this section B.2, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.**

4.) MBE Participation Waiver

If the apparent successful offeror is unable to achieve the contract goal for certified MBE participation, the offeror must submit instead of, or in conjunction with an *MBE Subcontractor Project Participation Statement*, a written request for a waiver with justification, to include the following:

- (a) A detailed statement of the efforts made to select portions of the proposed work to be performed by the certified MBE's in order to increase the likelihood of achieving the stated goal;
- (b) A detailed statement of the efforts made to contact and negotiate with certified MBEs including the names, addresses, dates, and telephone numbers of the certified MBEs contacted and a description of the information provided to the certified MBEs regarding plans, specifications, and anticipated time schedules for portions of the work to be performed;
- (c) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful offeror considered not to be acceptable, a detailed statement of the reasons for this conclusion; and
- (d) In the event certified minority subcontractors are found to be unavailable, a signed and notarized *MBE Statement of Unavailability (Appendix G, MBE Attachment E)* must be prepared by the apparent successful offeror, including the names, addresses, dates, and telephone numbers of the certified MBEs contacted, and the reason each MBE is unavailable. A waiver of a certified MBE contract goal shall be granted only upon reasonable demonstration by the apparent successful offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the Secretary or designee determines that a waiver serves the public interest. COMAR (Code of Maryland Regulations) 21.11.03.11 governing the MBE waiver is included as Appendix G, *MBE Attachment F*.

C. MBE Compliance

The Department will ensure ongoing compliance with subcontracting requirements by way of periodic reviews conducted by the Department and periodic reporting by both the prime contractor and certified MBE subcontractor(s). To this end the contractor shall:

- 1.) Submit monthly to the Department as noted below a *Prime Contractor Unpaid MBE Invoice Report (Appendix G, MBE Attachment G)* listing any unpaid invoices, over 30 days old, received from any certified MBE contractor, the amount of each invoice and the reason payment has not been made;
- 2.) Include in its agreement with certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department, a *Subcontractor Payment Report (Appendix G, MBE Attachment H)* that identifies the prime contract and lists all payments received from the contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices;

**Attention: One copy of each report noted above, is to be submitted monthly to the Department's Contract Monitor identified in this PART III of this solicitation and to the Office**

**of Community Relations, 5th floor, 201 West Preston Street, Baltimore, MD 21201 (410) 767-6600.**

- 3.) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of the work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the contractor and furnished to the Procurement Officer on request;
- 4.) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for Department inspection for a period of three years after final completion of the contract; and
- 5.) At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Upon determining the contractor's non-compliance, the Department shall notify the contractor in writing of its findings and shall specify what corrective actions are required. The contractor shall be required to initiate the corrective actions within 10 days and complete them within the time specified by the Department. If the Department determines that substantial noncompliance with MBE contract provisions exists and that the prime contractor refuses or fails to take corrective action required by the Department, then the following sanctions may be invoked:

- 1.) Withholding payment;
  - 2.) Termination of the contract;
  - 3.) Suspension of the right of the contractor to participate in any future contracts;
  - 4.) Referral to the Office of the Attorney General for appropriate action;
  - 5.) Initiation of any other specific remedy identified by the Contract; and
  - 6.) Any other compliance mechanism authorized in COMAR 21.11.03. or available at law.
- D. If the Department determines that the contractor has not complied with the certified MBE subcontractor participation goal, and has not obtained a waiver (See Appendix G, MBE Attachment F), the Procurement Officer, upon review by the Office of the Attorney General, may determine the contractor to be in breach of contract. The reasons for this action shall be specified in writing and mailed or delivered to the contractor.
- E. All questions related to MBE certification must be directed to:

Maryland Department of Transportation  
Office of Minority Business Enterprise/Equal Opportunity  
P.O. Box 8755  
BWI Airport  
Baltimore, Maryland 21240  
Telephone: (410) 865-1269

This Addendum is issued under the authority of State Procurement Regulations, COMAR 21.05.02.08 and with the approval of the DHMH Procurement Officer.

11/20/08  
Date

*Sharon R. Gambrell, CPPB*  
Sharon R. Gambrell, CPPB  
Assistant Director for Procurement  
Office of Procurement and Support Services

**ADDENDUM # 1 ACKNOWLEDGEMENT**

I acknowledge receipt of Addendum #1 to RFP DHMH/OPASS 10-9959 titled "*Administrative Services Organization (ASO) for Maryland's Public Mental Health System*" issue date of November 19, 2008.

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Vendor's Name:

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Authorized Signatory (Print/Type

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Signature:

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Date: